

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

May 4, 2004

MAINE PUBLIC UTILITIES COMMISSION  
Designation of Confidential Information  
Pursuant to 35-A M.R.S.A. § 1311-B

Docket No. 2001-632  
  
ORDER DESIGNATING  
INFRASTRUCTURE  
INFORMATION CONFIDENTIAL

MAINE PUBLIC UTILITIES COMMISSION  
Utility Service Area and Infrastructure  
Maps (chapter 140) Filings for the Year  
2004

Docket No. 2004-17  
  
ORDER DESIGNATING  
INFRASTRUCTURE  
INFORMATION CONFIDENTIAL

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WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

In this Order, we designate information about utility technical operations as incorporated in utility infrastructure maps filed pursuant to Chapter 140 of the Commission's Rules as confidential pursuant to our authority under 35-A M.R.S.A. § 1311-B.

**II. DISCUSSION AND DECISION**

Under 35-A M.R.S.A. § 1311-B, if the Commission determines that public access to specific information about public utility technical operations could compromise the security of public utility systems to the detriment of the public, the Commission may designate the information as confidential.

In adopting Chapter 140 of our Rules, we addressed a number of comments about confidentiality of infrastructure information that the Rule requires utilities to file. The Commission adopted Chapter 140 soon after the September 11, 2001 tragedies. Because of potential security issues related to utility infrastructure that were not clear at that time, in an exercise of caution, the Rule stated "Infrastructure maps and data filed pursuant to this Chapter will initially be treated as 'confidential' pursuant to 35-A M.R.S.A. § 1311-B. The Commission will subsequently determine what information should continue to be treated as confidential under § 1311-B." (emphasis in original). Chapter 140, § 3(E).

Northern Utilities recently filed a motion with the Commission asking it to issue a "standing order of protection" to protect its annual Chapter 140 infrastructure filings, pursuant to 35-A M.R.S.A. § 1311-A, with subsequent Commission review of that information for protection pursuant to 35-A M.R.S.A. § 1311-B if and when "another

party should appear and request such information.” Northern Utilities filed that motion on April 1, 2004, stating that its “infrastructure maps contain detailed information concerning the location of critical lines and valves, as well as other system information, that Northern protects and keeps confidential in its day-to-day operations.”

The vulnerability of the nation’s critical infrastructure, and the possibility that terrorist organizations might specifically target utility infrastructure to cause significant economic harm to the nation, did not diminish after September 2001. To the contrary, recognition of the high degree of interdependencies that exist between utility sectors has in fact elevated concerns about utility infrastructure in the homeland security and critical infrastructure protection arena. Some federal agencies that routinely handle critical utility infrastructure data (e.g., the Federal Energy Regulatory Commission and the Department of Homeland Security) have adopted rules that protect critical infrastructure information (CII) at the federal level, to an extent similar to the degree of protection afforded by 35-A M.R.S.A. § 1311-B within Maine. Thus, we believe that it is reasonable for the Commission to extend the “initial” protection of utility infrastructure maps and data filed pursuant to Chapter 140 to cover subsequent filings of such information pursuant to that Rule. To the extent that circumstances change over time and justify a lesser degree of protection in the future, we will re-examine that issue in a further order or in any proceedings in which we propose to amend Chapter 140.

Accordingly, we hereby designate information filed with the Commission pursuant to Section 3 of Chapter 140 of our Rules, and any documents and files based on or created from that information, as confidential pursuant to 35-A M.R.S.A. § 1311-B(1). As provided in that section, such information is not a public record subject to disclosure under 1 M.R.S.A. §§ 401 – 408.

Dated at Augusta, Maine, this 4<sup>th</sup> day of May, 2004.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Diamond  
   Reishus

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.